

This instrument prepared by and return to:

STATE OF NORTH CAROLINA
COUNTY OF

WARRANTY
DEED OF AGRICULTURAL LAND EASEMENT

This Deed of Agricultural Land Easement (“ALE”) is granted on this ____ day of _____, 2017, by _____ having an address of _____, North Carolina 28025-7659 (collectively “Grantor”), to _____ having an address of _____, North Carolina 28027-6214 (“Grantee”), the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) acting by and through the North Carolina Agriculture Development and Farmland Preservation Trust Fund (“NCDA&CS” or “ADFP Trust Fund”) and with a right of enforcement to the United States of America (“the United States”) acting by and through the United States Department of Agriculture, Natural Resources Conservation Service (“NRCS”), on behalf of the Commodity Credit Corporation (CCC) as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. The Grantor, Grantee, NCDA&CS, and the United States are collectively referred to as “the Parties”.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successor and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

The United States is providing \$_____ toward the purchase of this Agricultural Land Easement; which amount represents ____% of the appraised fair market value of the rights conveyed by this Agricultural Land Easement (“Easement Value”). Grantor is donating ____% of the Easement Value \$_____ and the remaining ____% of the Easement Value is provided by the Grantee through the ADFP Trust Fund in the amount of \$_____ with _____ contributing \$; for a total cash consideration of \$_____.

RECITALS

WHEREAS, Grantor is the sole owner in fee simple, of a certain farm property identified in Exhibit ___ located in _____ Township, _____ County, North Carolina and identified on the plat of property entitled “Plat Showing Boundary Survey & Conservation Easement” prepared by _____ which plat is recorded at Plat Book _____ Page _____, _____ County Registry with such farm property totaling _____ acres covered by this Agricultural Land Easement (the “Protected Property”).

WHEREAS, the Protected Property consists primarily of productive agricultural land. The Protected Property also contains within its boundary buildings and/or improvements as shown on Exhibit _____ attached hereto and incorporated herein. The majority of the soils on the Protected Property have been classified as “prime” or “statewide important” soils by the NRCS), United States Department of Agriculture (“USDA,” also referred to as “United States”). It is the primary purpose of this Agricultural Land Easement to protect the agricultural soils and agricultural viability and productivity by limiting non-agricultural uses of the Protected Property.

WHEREAS, the Protected Property also includes outstanding woodland and riparian habitats for a variety of wildlife species of importance to the Grantor, the people of _____ County and the people of North Carolina.

WHEREAS, the Protected Property contains numerous tributaries that flow into the _____ Creek which flows into _____ River, and where the Protected Property is within an agriculture open zone in the _____ County Land Use Plan. It is a secondary purpose of this Agricultural Land Easement to protect these natural wildlife habitat, historical, and scenic resources. The agricultural, natural, wildlife habitat and scenic resources of the Protected Property are collectively referred to as the “Conservation Values” of the Protected Property.

WHEREAS, the specific Conservation Values of the Protected Property and its current use and state of improvement are described in a Baseline Documentation Report (“Report”) prepared by the Grantee with the cooperation of the Grantor, and acknowledged by both parties to be accurate as of the date of this Agricultural Land Easement. This Report may be used by the Grantee to document any future changes in the use or character of the Protected Property in order to ensure the terms and condition of the Agricultural Land Easement are fulfilled. This Report, however, is not intended to preclude the use of other evidence to establish the present condition of the Protected Property if there is a controversy over its use. The Grantor and Grantee have copies of this Report, and this Report will remain on file at the office of the Grantee.

WHEREAS, the Grantor and Grantee agree that the current agricultural use of, and improvements to, the Protected Property are consistent with the conservation purposes of this Agricultural Land Easement.

WHEREAS, the Grantor intends that the Conservation Values of the Protected Property be preserved and maintained, and further, Grantor intends to convey to the Grantee the right to preserve and protect the agricultural and other Conservation Values of the Protected Property in perpetuity.

WHEREAS, the Conservation Purposes of the Agricultural Land Easement are recognized by, and the grant of this Agricultural Land Easement will serve, the following clearly delineated governmental conservation policies:

1. This Agricultural Land Easement in perpetuity is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (ACEP), 16 U.S.C. §

3865 et seq. and 7 CFR Part 1468 for the purpose of protecting the agricultural use and future viability, and related conservation values, by limiting non-agricultural uses of the Protected Property;

2. N. C. Gen. Stat. § 139-2 et seq., which provides that “it is hereby declared . . . that the farm, forest and grazing lands of the State of North Carolina are among the basic assets of the State and the preservation of these lands is necessary to protect and promote the health, safety and general welfare of its people. . . . It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and resources of this State;”
3. N. C. Gen. Stat. § 106-583 et seq., which states that “It is declared to be the policy of the State of North Carolina to promote the efficient production and utilization of the products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum prosperity;”
4. The Uniform North Carolina Conservation and Historic Preservation Agreements Act (N. C. Gen. Stat. § 121-34 et seq.) which provides for the enforceability of restrictions, easements, covenants or conditions “appropriate for retaining in land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming or forest use;” and which provides for tax assessment of lands subject to such agreements “on the basis of the true value of the land and improvement less any reduction in value caused by the agreement;”
5. The establishment of the North Carolina Farmland Preservation Trust Fund established in 2005 (N.C. Gen Stat § 106-744 (c)) to preserve important farmland in North Carolina; and
6. The special use assessment of farm and forest land as set forth in N. C. Gen. Stat. § 105-277.2 et seq.

WHEREAS, Grantor and Grantee have the common purpose of protecting the above described Conservation Values and current condition of the Protected Property and preventing conversion of the Protected Property to non-agricultural uses and Grantor agrees to create and implement an Agricultural Land Easement Plan (“ALE Plan”).

As required by 16 U.S.C. § 3865a, agricultural production and related uses of the Protected Property are subject to an ALE Plan, as approved by NRCS, to promote the long-term viability of the land to meet the Agricultural Land Easement (“ALE”) purposes. The ALE Plan must also be approved by the Grantor and the Grantee. Grantor agrees the use of the Property will be subject to the ALE Plan on the Protected Property.

The ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this ALE. The Grantee and Grantor agree to update the ALE Plan in the event the agricultural uses of the Protected Property change. A copy of the current ALE Plan is kept on file with the Grantee.

The Grantee must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the ALE Plan, NRCS may notify the Grantee. NRCS will give the Grantee and Grantor a reasonable

amount of time, not to exceed 180 days, to take corrective action. If Grantee fails to enforce the terms of the ALE, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.

WHEREAS, the Grantee is a body politic existing under Chapter 139 of the North Carolina General Statutes, and is qualified to hold Easements under the applicable laws of the State of North Carolina and is a qualified organization under I.R.C. Section 170(h).

NOW, THEREFORE, for _____ Dollars (\$____) and for the reasons given and other good and valuable consideration and in consideration of their mutual covenants, terms, conditions and restrictions contained herein, the Grantor hereby voluntarily grants and conveys to the Grantee, and the Grantee hereby voluntarily accepts, a perpetual Agricultural Land Easement (ALE) in the Protected Property, which Agricultural Land Easement is an immediately vested interest in real property of the nature and character described herein. Grantor promises that they will not perform, nor knowingly allow others to perform, any act on or affecting the Protected Property that is inconsistent with the covenants contained herein. Grantor authorizes the Grantee to enforce these covenants in the manner described below.

ARTICLE I. GENERAL

1.1. Statement of Purpose. It is the primary purpose of this Agricultural Land Easement (ALE) to enable the Protected Property to remain in agricultural use by preserving and protecting its agricultural soils and agricultural viability and productivity by limiting nonagricultural uses of the Protected Property. No activity that would significantly impair the actual or potential agricultural use of the Protected Property shall be permitted. To the extent that the preservation and protection of the natural, historic, recreational, habitat or scenic values referenced in this Agricultural Land Easement are consistent with the primary purpose stated above, it is within the purpose of this Agricultural Land Easement to also protect those values, and no activity that would significantly impair those values shall be permitted.

The provisions of this ALE and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Protected Property, so long as the agricultural operations are consistent with the long-term viability of the Protected Property, ALE Plan and ALE purposes, and do not violate federal laws, including federal drug laws. No uses will be allowed that decrease the ALE's protection for the agricultural use and future viability, and related conservation values of the Protected Property.

The production, processing, and marketing of agricultural crops and livestock is allowed provided it is conducted in a manner consistent with the terms of the ALE Plan.

1.2. Perpetual Duration. This ALE over the Protected Property as further described in Exhibit ____ shall be perpetual. It is an Agricultural Land Easement in gross, runs with the land and is enforceable by Grantee against Grantor as provided herein, and against Grantor's representatives, successors, assigns, lessees, agents and licensees.

1.3. Extinguishment of Development Rights. Except as otherwise reserved to the Grantor in this Agricultural Land Easement, the parties agree that all development rights appurtenant to the Protected Property are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Protected Property as it now or hereafter may be bounded or described, or used or transferred to any other property adjacent or otherwise, nor used for

the purpose of calculating permissible lot yield of the Protected Property or any other property by anyone including the Grantor and Grantee.

- 1.4. Compliance with other Regulatory Requirements. The Grantor is responsible for complying with any and all additional permits or regulation to use or develop the Protected Property under the terms of this Agricultural Land Easement, including _____ County, State of North Carolina or Federal requirements, regardless of any reserved rights or permissions contained in this Agricultural Land Easement Document.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

Any activities inconsistent with the purposes of this ALE are prohibited.

The terms and conditions of this ALE run with the land and are binding upon the Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this Agricultural Land Easement, including the following:

- 2.1. Subdivision. Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited.

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of this Agricultural Land Easement, and the restrictions and covenants of this Agricultural Land Easement will apply to the Protected Property as a whole.

- 2.2. Industrial and Commercial Use. Industrial and commercial use on the Protected Property are prohibited except: agricultural production and related uses conducted as described in the ALE Plan; the sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the conservation purposes of this Agricultural Land Easement; temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, and related conservation values of the Protected Property herein protected; commercial enterprises related to agricultural or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, and small-scale farm wineries; small-scale commercial enterprises compatible with agriculture or forestry, including but not limited to cafes, shops, and studios for arts or crafts. This restriction does not prohibit the use of the Protected Property or construction of improvements primarily for agricultural, horticultural, forestry, silvicultural and non-developed recreational purposes as more specifically defined herein.

- 2.3. Oil, Gas, or Mining Exploration and Extraction. Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this ALE or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from Protected Property is prohibited. There shall be no filling, excavation, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, peat, minerals, hydrocarbons or other materials, and no change in the topography of the land in any manner except as necessary for the purpose of farming operations or combating erosion of flooding and as reasonably necessary for any permitted maintenance, construction or reconstruction on the Protected Property. Disturbed areas for the purpose of removing topsoil, sand, gravel, rock, peat, minerals, or other materials shall be limited to one acre in total surface area as identified in

Exhibit __, must not harm the conservation values or the agricultural uses of the Property and will be restored as soon as practicable after the disturbance. Any removal of material as provided for in this subsection shall be solely for the purposes of the Protected Property and shall not be removed and sold to a third party. Under no circumstances is the exploration, exploitation and/or drilling for oil, natural gas, coal and/or other hydrocarbons permitted in, on or to the Protected Property. If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this ALE is executed, and their interests have not been subordinated to this ALE, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this paragraph.

- 2.4. Surface Alteration. Grading, blasting, filling, sod farming, earth removal, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows: dam construction in accordance with the ALE Plan to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation; erosion and sediment control pursuant to a plan approved by the Grantee; soil disturbance activities required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Agricultural Land Easement; or Agricultural activities conducted in accordance with the ALE Plan.
- 2.5. Motorized Vehicle Use. Grantor shall not use motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agricultural, forestry, habitat management, law enforcement and public safety, or conservation uses of the Protected Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils on the Protected Property and the Statement of Purposes of the ALE; however, notwithstanding the foregoing, use of snowmobiles on snow is allowed on the Protected Property.
- 2.6. Dumping and Trash. Dumping or storage of soil, trash, refuse, debris, ashes, garbage, waste, abandoned vehicles or parts, appliances, machinery, or hazardous substances, or toxic or hazardous waste, is prohibited. The placement of underground or above ground storage tanks or other materials is prohibited, with the exception of agricultural products, byproducts (including the composting of biodegradable material for on-farm use) and agricultural equipment used on the Protected Property, so long as such storage is done in accordance with all applicable government laws and regulations and in such a manner so as to not impair the Conservation Values of the Protected Property.
- 2.7. Structures and Improvements. There shall be no building, tower, facility, mobile home, or other structure constructed or placed on the Protected Property, not otherwise specifically authorized herein, unless related specifically to a right reserved to the Grantor in Article III. Any structures permitted or reserved by Grantor shall be of such reasonable size, proportion, height and character so as not to significantly detract from the open space and agricultural purposes of this Agricultural Land Easement. Under no circumstances shall recreational fields, golf courses or ranges, airstrips or helicopter pads be constructed or permitted on the Protected Property.
- 2.8. Signage. Display to the public of billboards, signs or advertisements is prohibited on or over the Protected Property, except to state the name of the property and its farmland status, including its Agricultural Land Easement status, the name and address of the occupant, to

advertise an on-site activity, and to advertise the property for sale or rent, as allowed by the sign ordinance set forth in the _____ County Zoning and Subdivision Ordinance. Grantor shall be permitted to erect no trespassing signs, traffic or directional signs or warning signs as may be expedient and to post the property.

- 2.9. Limitation on Impervious Surfaces. Impervious surface will not exceed two percent (2%) of the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property, including, but not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, paved driveways, paved walkways, paved farm roads, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this ALE. Excluded from this definition are compacted dirt and gravel surfaces, including farm roads, driveways and other surfaces that do not fully restrict the percolation of water into the soil. This restriction shall apply to permanent and temporary structures and facilities, both existing and proposed. The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the agricultural use and future viability and related conservation values of the Protected Property as determined by the Grantee in consultation with the Chief of NRCS.

ARTICLE III. RIGHTS AND RESPONSIBILITIES RETAINED BY GRANTOR

Notwithstanding any provisions of this Agricultural Land Easement to the contrary, the Grantor reserves to and for themselves and their successors all customary rights and privileges of ownership, including the rights to sell, lease, and devise the Protected Property, together with any rights not specifically prohibited by or limited by this Agricultural Land Easement, and consistent with the Section 1.1., "Statement of Purpose". Unless otherwise specified below, nothing in this Agricultural Land Easement shall require the Grantor to take any action to restore the condition of the Protected Property after any Act of God or other event over which they have no control. Grantor understands that nothing in this Agricultural Land Easement relieves them of any obligation or restriction on the use of the Protected Property imposed by law.

- 3.1. Right to Farm. Grantor retains the right to farm, or to permit others to farm the Protected Property, consistent with the Conservation Values of the Protected Property and in accordance with applicable local, state and federal laws and regulations and in accordance with the ALE Plan. Subject to any prohibitions stated herein, farming, grazing, horticultural (provided such activity does not remove topsoil from the Protected Property) and animal husbandry operations are permitted only if conducted consistent with Best Management Practices promulgated by the State of North Carolina and in conformity with the ALE Plan as required in Section 4.5 hereafter.
- 3.2. Right to Privacy. Grantor retains the right to privacy and the right to exclude any member of the public from trespassing on the Protected Property. This Agricultural Land Easement is not intended to create any rights of the public in, on or to the Protected Property.
- 3.3. Right to Use the Protected Property for Customary Rural Enterprises. Grantor retains the right to use the Protected Property, for otherwise lawful and customary rural enterprises, such as, but not limited to, farm machinery repair, sawmills, firewood distribution, for nature and historic tours, equestrian activities, and other passive or "Ecotourism", "Agritourism" and

“Special Events” as defined herein, educational programs or farm meetings and like activities, so long as such activities are consistent with _____ County zoning regulations and permits required by and issued by _____ County under its laws and ordinances. Any structures required for permitted purposes shall be located only within the Farmstead Areas, as shown on Exhibit _____. Any permanent or temporary structure or otherwise addition to the impervious surface shall not cause the total impervious surface restriction of the Protected Property to exceed two percent (2%).

Grantor has the right to establish and carry out customary rural enterprises provided such activities are compatible with the Conservation Purposes of this ALE and agriculture and forestry uses of the Protected Property, and are subordinate to the agricultural and residential use of the Protected Property. The enterprises shall be conducted in the buildings required for the agricultural use of the Protected Property or the residences in which full time employees of the farm reside. Enterprises which market petroleum or chemical products are prohibited.

For purposes herein, the term “Ecotourism” shall be broadly defined to mean tourism and activities that are carried out in a relatively undisturbed natural area that serves as a tool for the education, appreciation, and promotion of natural and cultural heritage that has minimal negative impacts on the environment and farming resources of the Protected Property and promotes conservation and best management practices and provides constructive ongoing contributions to and for the local community.

The term “Agritourism” shall be broadly defined to mean those farming activities and traditional rural activities that are carried out on any agricultural location, including horticultural and agribusiness operations, that allows members of the general public, for recreational, entertainment, active involvement, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions, or “Special Events” as defined herein, that have minimal negative impacts upon the environment and the Conservation Values of the Protected Property and are limited to “de minimis” access to and uses of the Protected Property. An activity is an Agritourism activity whether or not the participant paid to participate in the activity.

The term “Special Events” shall be broadly defined to mean a one-time or infrequently occurring event outside normal “Agritourism” programs or activities that provides for an agriculturally based leisure, social or cultural experience outside the normal range of Agritourism choices or beyond the everyday agricultural experience such as but not limited to: seasonal festivals, harvest celebrations, field days, square dances, and the like. In no event shall “Special Events” exist on the Protected Property for more than seven (7) days per twelve (12) month period nor exist in a manner that negatively impacts the soils or Conservation Values. Any parking associated with such events shall be located within the Farmstead Areas and/or existing farm roads as depicted in Exhibit _____.

- 3.4. Construction on the Protected Property - procedure to Construct Buildings and Other Improvements. The Grantor’s rights to construct or reconstruct/repair buildings and other improvements are described in subparagraphs (a) through (e) below. Any construction or reconstruction not permitted below is prohibited. All new structures and improvements must be located within the Building Envelopes, containing approximately ___ acres and described in Exhibit _____, which is appended to and made a part of the ALE. Before undertaking any construction or reconstruction that requires advance permission, the Grantor shall notify the Grantee and obtain written permission. All construction or reconstruction is subject to _____ County Zoning and Subdivision Ordinances and must be consistent with permits

required by and issued by _____ County under applicable laws and ordinances for such construction activities. Any building that may be constructed under this Section may be repaired and replaced.

The boundaries and location of the Building Envelopes may be adjusted if Grantee, The NCDA&CS Commissioner of Agriculture, and the Chief of NRCS provide prior written approval of the adjusted boundaries and location. The Building Envelopes may not increase in size and the adjusted Building Envelopes must provide equal or greater protection of the agricultural use and future viability and related conservation values of the Protected Property.

Utilities to serve approved buildings or structures, including on-farm energy structures allowed and agricultural structures that neither individually nor collectively have an adverse impact on the agricultural use and future viability and related conservation values of the Protected Property, may be built outside of the Building Envelope with prior written approval of the Grantee provided that the utilities or agricultural structures are consistent with the ALE Plan.

Grantor further understands that the two percent (2%) maximum impervious surface limit set by the USDA Agricultural Conservation Easement Program-ALE disallows the construction of any new structures or impervious roads or other improvements to the Protected Property or replacement of said structures that would increase the total impervious surface area above the two percent (2%) maximum. All permanent construction and/or placement upon the Protected Property of any impervious surface must be approved in writing by the Grantee to ensure the maximum impervious limit is not exceeded.

- a) Fences – Existing fences may be maintained and replaced, and new fences may be installed if they are necessary for the agricultural operations on the Protected Property or to mark the boundaries of the Protected Property.
- b) Paving and Road Construction – Construction and maintenance of unpaved farm roads that may be reasonably necessary and incidental to carrying out the improvements and uses permitted on the Protected Property by this Agricultural Land Easement are permitted. Such roads shall be located so as to minimize impact to prime and unique soils on the Protected Property. No portion of the Protected Property shall be paved or otherwise covered with concrete, asphalt, or any other impervious paving material, without the advance written permission of the Grantee. New roads may be constructed if they are approved in advance by Grantee, within impervious surface limits, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property. Maintenance of existing roads documented in the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operation or other allowed uses on the Protected Property.
- c) Farm Structures & Improvements – New buildings, barns, sheds and other structures and improvements to be used primarily for agricultural purposes, including the processing or sale of farm products predominantly grown or raised on the Protected Property may be built within the “Farmstead Area” as shown on Exhibit _____, after written approval from the Grantee is obtained. The Grantee shall give such approval within a reasonable time, unless it determines that the proposed building, structure or improvement would exceed the total maximum impervious surface restriction by the USDA Agricultural Conservation

Easement Program-ALE, significantly diminish or impair the Conservation Values of the Protected Property or otherwise be inconsistent with the purposes of this Agricultural Land Easement. Existing buildings/barns/sheds and greenhouses as depicted in Exhibit _____ may be repaired or reconstructed in accordance with all other Agricultural Land Easement provisions.

Any temporary structures proposed for locations outside the Farmstead Areas shall be for agricultural purposes only and may only be erected with the advance written permission of the Grantee. The Grantee shall give such permission within a reasonable time and ensure the proposed temporary structure is erected in a way that minimizes any negative impact to the soils, diminishes and/or in any way is inconsistent with the Conservation Values of the Agricultural Land Easement Deed.

- d) Farm Support Housing – No more than a total of one (1) new single –or multi-family dwelling to house farm tenants, employees or others engaged in agricultural production or other farm support uses on the Protected Property may be built on the Protected Property. The dwelling must be no greater than 1,500 square feet in floor size and shall be located within that area identified and marked as the “Farmstead Area” identified on Exhibit _____
- e) Single-Family Residential Dwellings – The Agricultural Land Easement includes _____ existing single-family residential dwellings within the _____ Easement Exception #1 and the _____ Farm Easement Exception #2 shown on Exhibit _____. These residences may be renovated or enlarged so long as the construction is first approved by the Grantee to determine that it does not exceed the maximum impervious surface restriction designated by the USDA Agricultural Conservation Easement Program-ALE. The residential dwellings shall be no greater than four thousand (4000) square feet each, including heated and unheated space. All residential structures and appurtenant structures such as garages and sheds shall be contained in the Farmstead Area.

No additional single family residential dwellings may be built anywhere on the Protected Property.

The land on which this residential dwelling stands may not be subdivided from the Protected Property. Grantee’s participation in or the signing of this Agricultural Land Easement in no way constitutes approval of the permitting of these residential dwellings. All appurtenant structures shall be contained within the Farmstead area. Any septic system and field to provide for domestic effluent shall be contained within the Farmstead Areas. In the event that a suitable site for the system and field cannot be located within the Farmstead Area, a suitable location outside the farmstead area may be utilized with the written approval of the Grantee, the NCDA&CS and NRCS.

3.5. Recreational Improvements. Grantor expressly reserves the right to engage in low impact non-developed recreational activities such as hunting, fishing, hiking, bird watching, etc. and to control access of all persons for the purpose of hunting and fishing, hiking, bird watching, etc., provided that these activities do not impact the protection and conservation of any animal habitat or other Conservation Values of the Protected Property.

3.6. Utility Services, Septic Systems, and Fuel Storage. Installation, maintenance, repair, replacement, removal and relocation of electric, gas, and water facilities, sewer lines and/or other public or private utilities, including telephone or other communication services over or

under the Protected Property for the purpose of providing electrical, gas, water, sewer, or other utilities to serve improvements permitted herein, and the right to grant easements over and under the Protected Property for such purposes, is permitted. Installation, maintenance, repair or improvement of a septic system or other underground sanitary system for the benefit of any of the improvements permitted herein, is permitted. Above-ground storage tanks for fuels or any other materials for residential or on-site agricultural use are permitted up to a maximum size of one thousand (1000) gallons. Any such tanks are required to be located within the Farmstead Envelopes, shall be constructed to minimize any pollution to land or water, and in accordance with applicable local, state and federal laws and regulations. All other utilities are prohibited on the Protected Property including, but not limited to, communication towers or structures. Notwithstanding the previous sentence, with advance written permission from Grantee, Grantor retains the right to construct a wind turbine or similar device for the purpose of generating electricity to be used for the permitted improvements and farming operations occurring on the Protected Property.

On-farm energy production/renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits, with minimal impact on the conservation values of the Protected Property and consistent with the purposes of the ALE.

- 3.7. Forest Management and Timber Harvest. Forest management and timber harvesting is allowed, provided it is carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Protected Property. In addition, if the Protected Property contains 40 contiguous acres of forest or 20 percent of the Protected Property is forestland then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resource manager, in consultation with the Grantee. A forest management plan will not be required for the following allowed noncommercial activities: cutting of trees for the construction of allowed roads, utilities, buildings and structures on the Protected Property, cutting of trees for trail clearing, cutting of trees for domestic use as firewood or for other domestic uses by Grantor, removal of trees posing an imminent hazard to the health or safety of person or livestock, or removal of invasive species.

Pursuant to a forest management plan trees may be removed, cut and otherwise managed (to control insects, for pasture restoration, for firewood and other non-commercial uses, including construction of permitted improvements, cutting of trees for trail clearing, removal of trees posing an imminent hazard to the health or safety of persons or livestock, removal of invasive species, and fences) on the Protected Property. Trees may be planted, harvested and removed within the areas identified and marked as "Farmstead Area" on Exhibit ___ without the advance written permission of the Grantee.

Any other cutting, removal or harvesting of trees may be undertaken within the areas identified and marked as "Forest" on Exhibit ___ only under one or both of the following conditions:

- a) The purpose is for clearing land for cultivation or use by livestock, and it occurs outside of a 50-foot buffer along both sides of any intermittent streams which run through the Protected Property and are identified on Exhibit ___ within these stream buffer areas are excluded from this provision unless the buffer area becomes re-vegetated for a period of 10 years or more in which case this provision shall apply.

- b) The purpose is for commercial harvesting of trees if in accordance with the ALE Plan referenced in Section 4.5 herein and a forest management plan that is consistent with the above-referenced ALE Plan and prepared by a professional forester approved by Grantee, such approval to not be unreasonably withheld.
- 3.8. Water Rights. Grantor shall retain and reserve the right to use any appurtenant water rights sufficient to maintain the agricultural productivity of the Protected Property. Grantor shall not transfer, encumber, lease, sell or otherwise separate such water rights from title to the Protected Property itself.
- 3.9. Land Application. The land application, storage and placement on the Protected Property of domestic septic effluent and municipal, commercial or industrial sewage sludge or liquid generated from such sources for agricultural purposes may be undertaken only if in accordance with all applicable federal, state and local laws and regulations and in accordance with the ALE Plan. Spray irrigation of domestic septic effluent to serve the Protected Property's dwelling(s) is prohibited.
- 3.10. Natural Resource Restoration and Enhancement Activities. Notwithstanding any terms contained in this Agricultural Land Easement, Grantor may engage or contract others to engage in any activity designed to repair, restore, or otherwise enhance the natural resources found or once present on the Protected Property, that are consistent with the Conservation Values of this Agricultural Land Easement and the ALE Plan and subject to the written approval of Grantee.
- 3.11. Pond Creation, and Wetland Restoration. The Grantor is permitted to construct ponds and restore wetlands in accordance with the ALE Plan and NRCS standards and specifications. Ponds must support agricultural operations such as irrigation, livestock water supplies, or fire control. Wetlands must be either used to treat agricultural waste or support critical habitat needs for wildlife species. The size of ponds and wetlands must be supported by appropriate documentation in the ALE Plan.
- 3.12. Grassland Use of the Protected Property. Grantors are allowed to graze, hay harvest for hay and noncrop seed production, mow, construct fire breaks, conduct fire suppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and conservation purposes of this ALE. The term "common grazing practices" means those practices customary to the region where the Protect Property is located to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Protect Property. Grantors must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified by Grantee or NRCS in the ALE plan. Determinations of nesting seasons for birds whose populations are in significant decline will be made in writing to the Grantors, or set forth within the ALE Plan for the Protected Property.

ARTICLE IV. ONGOING RESPONSIBILITY OF GRANTOR AND GRANTEE

Other than as specified herein, this Agricultural Land Easement is not intended to impose any legal or other responsibility on the Grantee or the United States, or in any way to affect any existing obligation of the Grantor as owners of the Protected Property.

Due to the State's interest in this Agricultural Land Easement other than as specified herein, this Agricultural Land Easement is not intended to impose any legal or other responsibility on the NCDA&CS, or in any way to affect any existing obligation of the Grantor as owners of the Protected Property.

Among other things, this shall apply to:

- 4.1. Taxes. The Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Protected Property. If the Grantee is ever required to pay any taxes or assessments on its interest in the Protected Property, the Grantor shall upon demand reimburse the Grantee for the same.
- 4.2. Upkeep and Maintenance. The Grantor shall continue to be solely responsible for the upkeep and maintenance of the Protected Property, to the extent it may be required by law. The Grantee and the United States shall have no obligation for the upkeep or maintenance of the Protected Property. Due to the State's interest in this Agricultural Land Easement, NCDA&CS shall have no obligation for the upkeep or maintenance of the Protected Property.
- 4.3. Transfer of Protected Property. The Grantor agrees to incorporate by reference the terms of this Agricultural Land Easement in any deed or other legal instrument by which they transfer or divest themselves of any interest, including leasehold interests, in the Protected Property. The Grantor shall notify the Grantee in writing at least thirty (30) days before conveying the Protected Property, or any interest therein. Failure of Grantor to do so shall not impair the validity of this Agricultural Land Easement or limit its enforceability in any way.
- 4.4. Transfer of Agricultural Land Easement. Subject to the right of enforcement of the United States as specified in Section 4.8 and other pertinent paragraphs herein, and with timely written notice to and prior written approval of the United States, the Grantee shall have the right to transfer the rights created by this Agricultural Land Easement to any public agency or to any private nonprofit organization approved by Grantor, such approval to not be unreasonably withheld, that, at the time of transfer, is a qualified organization under Section 170(h) of the Internal Revenue Code, as amended and under N. C. Gen. Stat. § 121-34 et seq., provided the agency or organization expressly agrees to assume the responsibility imposed on the Grantee by this Agricultural Land Easement. If the Grantee ever ceases to exist or no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code, or applicable state law, and the United States declines to exercise its contingent rights, a court with jurisdiction may transfer this Agricultural Land Easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed by this Agricultural Land Easement.

Subject to the contingent rights of the State of North Carolina with timely written notice and approval of the NCDA&CS, the Grantee shall have the right to transfer this Agricultural Land Easement to any public agency or private nonprofit organization that, at the time of transfer, is a qualified organization under 26 U.S.C. § 170(h) of the Internal Revenue Code, as amended and under N. C. Gen. Stat. § 121-34 et seq., provided the agency or organization expressly agrees to assume the responsibility imposed on the Grantee by this Agricultural Land Easement. As a condition of such transfer, Grantee shall require that the conservation purposes intended to be advanced hereunder shall be continued to be carried out. If the Grantee ever ceases to exist or no longer qualifies under 26 U.S.C. § 170(h) of the Internal Revenue Code, or applicable state law, a court with jurisdiction shall transfer this Agricultural Land Easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed by the Agricultural Land Easement.

- 4.5. Conservation Practices. As required by Section 1238I of the Food Security Act of 1985, as amended, the Grantor, their heirs, successors, or assigns, shall conduct agricultural operations on the Protected Property in a manner consistent with the ALE Plan prepared by Grantor in consultation with NRCS and approved by the Grantee. This ALE Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date of execution of this Agricultural Land Easement. However, the Grantor may develop and implement an ALE Plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Protected Property, with advance notice to the Grantor, in order to monitor compliance with the ALE Plan.

In the event of noncompliance with the ALE Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the ALE Plan, NRCS will inform the Grantee of the Grantor's non-compliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the ALE Plan, following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the ALE Plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted their appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Agricultural Land Easement based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised ALE Plan. The provisions of this section apply to the highly erodible land conservation requirement of the ACEP-ALE and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

- 4.6 Inspection and Access. With reasonable advance notice to the Grantor or with the Grantor's prior verbal consent, Grantee or NCDA&CS, its employees and agents and its successors and assigns, shall have the right to enter the Protected Property for the purpose of inspecting the Protected Property to determine whether the Grantor, its successors or assigns are complying with the terms, conditions and restrictions of this Agricultural Land Easement.
- 4.7. Enforcement. The Grantee shall have the primary responsibility for management and enforcement of the terms of this Agricultural Land Easement.

Due to the State's interest in this Agricultural Land Easement, the Grantee shall have the primary responsibility for management, monitoring, and enforcement of the terms of this Agricultural Land Easement, subject to the rights of the NCDA&CS. Grantee shall complete and file the annual monitoring reports as stipulated in the ADFP Grant, a copy of which is kept on file with the NCADFP Trust Fund. The terms of such contract are hereby incorporated by reference as if fully set forth herein.

Grantee shall have the right to prevent violations and remedy violations of the terms of this Agricultural Land Easement through judicial action, which shall include, without limitation, the right to bring proceedings in law or in equity against any party or parties attempting to violate the terms of this Agricultural Land Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Protected

Property, the Grantee shall give the Grantor and NCDA&CS written notice of the violation and Grantor shall have thirty (30) days to cure the violation, before commencing any legal proceedings. If a court with jurisdiction determines that a violation may exist or has occurred, the Grantee may obtain an injunction to stop the violation, temporarily or permanently. Grantor, Grantee and NCDA&CS agree that a court may issue an injunction or order requiring the Grantor to restore the Protected Property to its condition prior to the violation, as restoration of the Protected Property may be the only appropriate remedy. The failure of the Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time. In any case where a court finds no such violation has occurred, Grantor, Grantee and NCDA&CS shall bear its own costs.

4.8. Rights of the State of North Carolina.

Subject to the United States' right of enforcement in Paragraph 4.9 below, in the event that the Grantee fails to enforce any of the terms of this Agricultural Land Easement, as determined in the discretion of the NCDA&CS, the said Commissioner of Agriculture and his or her successors and assigns shall have the right to enforce the terms of this Agricultural Land Easement through any and all authorities available under federal or state law.

- 4.9. United States Right of Enforcement. Pursuant to 16 U.S.C. § 3865 *et seq.*, the United States is granted the right of enforcement that it may exercise only if the terms of the ALE are not enforced by the holder of the ALE. The Secretary of the United States Department of Agriculture ("USDA") or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under state or federal law if Grantee, or its successors or assigns, fails to enforce any of the terms of this ALE, as determined in the sole discretion of such Secretary.

In the event the United States exercises this right of enforcement to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor.

The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the ALE and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the ALE, the ALE Plan, and the United States Cooperative Agreement with the Grantee, the United States will have reasonable access to the Protected Property with advance notice to Grantee and Grantor or Grantor's representative.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee and Grantor or Grantor's representative at the earliest practicable time.

In the event that Grantee attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this Agricultural Land Easement without the prior written consent of the

Secretary of the USDA and payment of consideration to the United States, then, at the option of such Secretary, all right, title, and interest in this Agricultural Land Easement shall become vested in the United States of America.

Additionally, in the event that Grantee fails to enforce any of the terms of this Agricultural Land Easement, as determined in the sole discretion of the Commissioner of Agriculture for North Carolina, the Commissioner of Agriculture and his or her successors and assigns shall have the right to enforce the terms of this Agricultural Land Easement through any and all authorities available under federal or state law. In the event that Grantee attempts to terminate, transfer, or otherwise divest itself of any rights, title, or interests of this Agricultural Land Easement without the prior consent of the Commissioner of Agriculture and payment of consideration to the State of North Carolina, then, at the option of the Commissioner of Agriculture, all right, title, and interest in the Agricultural Land Easement shall become vested in the State of North Carolina.

ARTICLE V. REPRESENTATIONS OF THE PARTIES

- 5.1. Grantor's Title Warranty. The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Protected Property in fee simple and has good right to grant and convey this Agricultural Land Easement; that the Protected Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Agricultural Land Easement, and that the Grantee shall have the use of and enjoy all the benefits derived from and arising out of this Agricultural Land Easement subject to existing easements for roads and public and private utilities.
- 5.2. Grantor's Environmental Warranty. Grantor warrants that Grantor is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that they have no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover Grantor hereby promises to hold harmless and indemnify the Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

Furthermore, Grantor warrants the information disclosed to Grantee and United States regarding any past violations or non-compliance with Environmental Laws and associated remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

Due to the State's interest in this Agricultural Land Easement, the Grantor hereby promises to hold harmless and indemnify the NCDA&CS against all litigation, claims, demands, penalties and damages, including reasonable attorneys fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property.

"Environmental Law" or "Environmental Laws" means any and all federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

5.3. General Disclaimer, Grantor Warranty, Liability and Indemnification. The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or Grantor's breach of any representation, warranty, covenant, or agreements contained in this ALE, or violations of any federal, state or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys fees and attorneys fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

Grantor agrees to indemnify and hold the Grantee, the State of North Carolina and the United States harmless from any and all costs, claims or liability, including but not limited to reasonable attorney's fees arising from any personal injury, accidents, negligence or damage relating to the Protected Property, or any claim thereof, unless due to the negligence of Grantee or its agents, in which case liability shall be apportioned accordingly. Grantor is responsible for obtaining liability insurance covering the Protected Property with limits deemed necessary by Grantor, in their sole discretion.

Grantor must indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys fees and attorneys fees on appeal) to which Grantee may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant or agreement contained in this Agricultural

Land Easement, or violations of any federal, state, or local laws, including all Environmental Laws.

Due to the State's interest in this Agricultural Land Easement, Grantor agrees to indemnify and hold Grantee and the State of North Carolina harmless from any and all costs, claims or liability, including but not limited to reasonable attorney's fees arising from any personal injury, accidents, negligence or damage relating to the Protected Property, or any claim thereof, unless due to the negligence of Grantee or its agents, in which case liability shall be apportioned accordingly.

ARTICLE VI. MISCELLANEOUS

- 6.1. Recording. Grantee shall record this instrument in a timely fashion in the official record of _____ County, North Carolina, and may re-record it at any time as may be required to preserve the rights of the Grantee, the State of North Carolina and the United States under this Agricultural Land Easement.
- 6.2. Survival of Terms/Merger of Fee and Easement. The Grantor and Grantee agree that the terms of this Agricultural Land Easement shall survive any merger of this fee and easement interest in the Protected Property. In the event the Grantee becomes owner of the Protected Property, or any portion thereof, Grantee shall transfer any right, title and interest in this Agricultural Land Easement to a third party in accordance with Section 4.4.
- 6.3. Amendment of Easement. This ALE may be amended only if, in the sole and exclusive judgement of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this ALE and complies with all applicable laws and regulations. The Grantee must provide timely written notice to the Chief of NRCS and Commissioner of the North Carolina Department of Agriculture and Consumer Services of any proposed amendments. Prior to the signing and recordation of the amended ALE, such amendments must be mutually agreed upon by the Grantee, Grantor, and the United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States and Commissioner of the North Carolina Department of Agriculture and Consumer Services is null and void.

Due to the State's interest, this Agricultural Land Easement may be amended only with the prior written consent of the Grantee and the Grantor and approved by the Commissioner of the North Carolina Department of Agriculture and Consumer Services and the Secretary of the United States Department of Agriculture by and through the Chief of NRCS. Any such amendment shall be consistent with Section 1.1., "Statement of Purpose" and with the Grantee's easement amendment policies, and shall comply with Section 170(h) of the Internal Revenue Code or any regulations promulgated in accordance with that section. Any such amendment shall be duly recorded in the _____ County Registry. Grantee must provide to NRCS and the North Carolina Commissioner of Agriculture timely notice in writing of the proposed amendment prior to signing and recordation. No substantive amendment shall be made and recorded without the express written approval of NRCS.

Due to the State's interest in the Agricultural Land Easement, the Grantee must provide NCDA&CS timely notice in writing of the proposed amendment prior to signing and recordation and, must receive written consent prior to awarding the Agricultural Land Easement.

6.4. Boundary Line Adjustments. Boundary line adjustments are permitted only in the case of technical errors made in the survey or legal description. In such cases, boundary line adjustments cannot exceed two (2) acres for the entire Protected Property. A correction deed containing the revised legal description shall be properly executed and duly recorded.

6.5. Procedure in the Event of Extinguishment, Termination, and Condemnation. The interests and rights under this Agricultural Land Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the Federal interest in this Agricultural Land Easement, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Protected Property.

If it determines that conditions on or surrounding the Protected Property change so much that it becomes impossible to fulfill the conservation purposes of this Agricultural Land Easement, a court with jurisdiction may, at the joint request of both the Grantor and the Grantee and with prior written consent of the United States, as provided herein, terminate or modify the Agricultural Land Easement in accordance with applicable state law.

Due to the State's interest in this Agricultural Land Easement, prior written consent must be provided to NCDA&CS prior to termination or modification of this Agricultural Land Easement, in accordance with applicable state law.

If the Agricultural Land Easement is terminated and the Protected Property is sold then as required by Section 1.1 70A-14(g) (6) of the IRS regulations, the Grantee, NC ADFP Trust Fund shall be entitled to recover the proceeds of the Agricultural Land Easement based on the appraised fair market value of the Agricultural Land Easement at the time the easement is extinguished or terminated, subject to any applicable law which expressly provides for a different disposition of the proceeds.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the ALE is __50%__ percent, hereinafter the "Proportionate Share," of the fair market value of the land unencumbered by this ALE. The Proportionate Share will remain constant over time.

If this ALE is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this ALE. The fair market value will be determined at the time all or a part of this ALE is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

The allocation of the Proportionate Share between the Grantee, the United States and NCDA&CS will be as follows: (a) to the Grantee or its designee, __ percent of the Proportionate Share; (b) to the United States __ percent of the Proportionate Share; and (c) to NCDA&CS __ percent of the Proportionate Share; (d) ____%. Until such time as the Grantee, the United States and NCDA&CS receive the Proportionate Share from the Grantor or the Grantor's successor or assign, the Grantee, the United States and NCDA&CS each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid

directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States, NCDA&CS, and _____.

6.6. Procedure in the Event of Condemnation or Eminent Domain. Grantor and Grantee recognize that the sale of this Agricultural Land Easement, or any part thereof, gives rise to a property right, immediately vested in the Grantee and the United States, with a fair market value equal to the proportionate value that the Agricultural Land Easement bears to the value of the Protected Property prior to the restrictions imposed by the Agricultural Land Easement. Accordingly, if any condemnation or eminent domain action shall be taken, on all or part of the Protected Property, by any authorized public authority, said authority shall be liable to the Grantee for the value of the property right vested in the Grantee at the time of the signing of this Agricultural Land Easement. Due to the federal interest in this Agricultural Land Easement, the United States must consent to any such condemnation action. Due to the State's interest in this Agricultural Land Easement, NCDA&CS must consent to any such condemnation action.

If condemnation or a taking by eminent domain of a part of the Protected Property or the entire Protected Property by a public authority renders it impossible to fulfill any of the conservation purposes of this Agricultural Land Easement on all or part of the Protected Property, the Easement may be terminated through condemnation proceedings. If the Agricultural Land Easement is terminated and any or all of the Protected Property is sold or taken for public use, then, as required by Section 1 of 170A-14(g) (6) of the IRS regulations, the Grantee shall be entitled to the proportionate value of the ALE, which has been predetermined as the Protected Property's unrestricted value, subject to any applicable law which expressly provides for a different disposition of the proceeds. The Grantee shall use its proceeds consistently with the general conservation purposes of this Agricultural Land Easement.

If this ALE is extinguished or terminated, the Parties shall receive compensation as described in paragraph 6.5 above.

6.7. Interpretation. This Agricultural Land Easement shall be interpreted under the laws of the State of North Carolina and the United States of America, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

6.8. Perpetual Duration; Severability. This Agricultural Land Easement shall be a servitude running with the land in perpetuity. Every provision of this Agricultural Land Easement that applies to the Grantor or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Invalidity of any of the covenants, terms or conditions of this Agricultural Land Easement, or any part thereof by court order or judgment shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

6.9. Subsequent Liens on Protected Property. No provision of this Agricultural Land Easement should be construed as impairing the ability of Grantor to use the Protected Property as collateral for subsequent borrowing. Any such liens shall be and remain subordinate to this Agricultural Land Easement.

- 6.10. Subsequent Easements/Restrictions on the Protected Property. The grant of any easements or use restrictions that might diminish or impair the agricultural viability or productivity of the Protected Property or otherwise diminish or impair the Conservation Values of the Protected Property is prohibited. Any such easements or restrictions shall be subordinated to this Agricultural Land Easement.
- 6.11. Notices. Any notices required by this Agricultural Land Easement shall be in writing and shall be personally delivered or sent by first class mail to the Grantor, Grantee, NCDA&CS, and the United States, respectively, at the following addresses, unless a party has been notified in writing by the other of a change of address.

To the Grantor:

To the Grantee:

To the United States:

State Conservationist
4407 Bland Rd., Suite 117
Raleigh, NC 27609-6387

To State of North Carolina:
N.C. Dept. of Agriculture &
Consumer Services
NC ADFP Trust Fund
2 West Edenton Street
Raleigh, NC 27601

- 6.12. Approval by Grantee. In any case where the terms of this Agricultural Land Easement require the approval of the Grantee, unless otherwise stated herein, such approval shall be requested in writing to the Grantee, and the United States and NCDA&CS if required, in accordance with Section 6.10. In any provision of this Agricultural Land Easement in which the Grantor is required to provide advance notice to the Grantee of any activity on the Protected Property, such notice shall be given not less than thirty (30) calendar days prior to the planned commencement of the activity. If the Grantee's approval is required, such approval shall be deemed withheld/disapproved unless Grantee provides to the Grantor written notice of approval within 30 calendar days of receipt of such request. If Grantor has received no response within such 30 calendar days, Grantor may send a second written notice to Grantee requesting a statement of the reasons for the disapproval and the Grantee shall respond within 30 calendar days with an explanation for the specific reasons and basis for its decision to disapprove.
- 6.13. Entire Agreement. This instrument sets forth the entire agreement of the Parties with respect to the Agricultural Land Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Agricultural Land Easement. If any provision is found to be invalid, the remainder of the provisions of this Agricultural Land Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.
- 6.14. Availability or Amount of Tax Benefits. Grantee and NCDA&CS, acting by and through the NCADFP Trust Fund make no warranty, representation or other assurance regarding the availability, amount or effect of any deduction, credit or other benefit to Grantor or any other person or entity under United States or any state, local or other tax law to be derived from the donation of this Agricultural Land Easement or other transaction associated with the donation of this Agricultural Land Easement. This donation is not conditioned upon the availability or amount of any such deduction, credit or other benefit. Grantee and NCDA&CS make no

warranty, representation or other assurance regarding the value of this Agricultural Land Easement or of the Protected Property. As to all of the foregoing, Grantor is relying upon Grantor's own legal counsel, accountant, financial advisor, appraiser or other consultant and not upon Grantee or NCDA&CS or any legal counsel, accountant, financial advisor, appraiser or other consultant of Grantee or NCDA&CS. In the event of any audit or other inquiry of a governmental authority into the effect of this donation upon the taxation or financial affairs involving Grantor or Grantor's heirs, successors or assigns or other similar matter, then Grantee and NCDA&CS shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever incurred by Grantee in responding or replying thereto.

6.15. Warranties and Representations of Owner. By signing this Agricultural Land Easement, Grantor acknowledges, warrants and represents to Grantee that:

- (a) Grantor has had the opportunity to be represented by counsel of Grantor's choice and fully understands that Grantor is hereby permanently relinquishing property rights which would otherwise permit Grantor to have a fuller use and enjoyment of the Protected Property.
- (b) There are no recorded or unrecorded leases or other agreements for the production of minerals or removal of timber from the Protected Property which would, if any of the activities permitted under such lease or other agreement was undertaken by Grantor, violate the covenants or restrictions in this Agricultural Land Easement or otherwise defeat the conservation Purpose.

TO HAVE AND TO HOLD this Deed of Agricultural Land Easement unto Grantee and the United States and their successors and assigns, forever.

IN WITNESS, the Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTOR:

By: _____

Date: _____ Date: _____

Date: _____ Date: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledge the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this ____ day of _____, 20__.

Notary Public
My commission expires: _____

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public in and for the aforesaid County and State, do hereby certify that _____ personally appeared before me this day and acknowledge the due execution of the foregoing instrument.

Witness my hand and official stamp or seal this ____ day of _____, 20__.

Notary Public
My commission expires: _____

GRANTEE:

By: _____
_____(Title)

NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public of _____ County, North Carolina do hereby certify that _____ personally appeared before me this day and acknowledged that (s)he is _____ of the Board of the _____ and that by authority duly given and as the act of the District, the foregoing instrument was signed by ___ in behalf of the _____

Witness my hand and official stamp or seal this ____ day of _____, 20__.

_____ (stamp)

Notary Public

My commission expires: _____

**ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES
CONSERVATION SERVICE ON BEHALF OF THE UNITED STATES OF AMERICA**

The Natural Resources Conservation Service, an agency of the United States Government, hereby accepts and approves the foregoing Agricultural Land Easement, and the rights conveyed therein, on behalf of the United States of America.

By: _____

Timothy A. Beard

State Conservationist

NORTH CAROLINA
COUNTY OF _____

I, _____, Notary Public of _____ County, North Carolina, do hereby certify that Timothy A. Beard, personally appeared before me and acknowledged that due execution of the foregoing instrument on behalf of the Natural Resources Conservation Service.

Witness my hand and official stamp or seal this ____ day of _____, 20__.

_____ (Official Seal)

Notary Public

My commission expires: _____

**ACCEPTANCE OF PROPERTY INTEREST BY THE NORTH CAROLINA DEPARTMENT
OF AGRICULTURE & CONSUMER SERVICES**

The North Carolina Department of Agriculture and Consumer Services, an agency of the State of North Carolina, hereby accepts and approves the foregoing Agricultural Land Easement, and the rights conveyed therein, on behalf of the State of North Carolina.

By: _____

Jonathan T. Lanier

N.C. Department of Agriculture and Consumer Services

NORTH CAROLINA
COUNTY OF _____

I, _____, a Notary Public in and for the aforesaid County and State, do hereby certify that Jonathan T. Lanier, personally appeared before me this day and acknowledged that due execution of the foregoing instrument.

Witness my hand and official stamp or seal this _____ day of _____, 20_____.

Notary Public
My commission expires: _____

List of Exhibits

EXHIBIT A – Legal Documents

Exhibit A-1: Legal Description of the Protected Property

Exhibit A-2: Plat Showing A Boundary Survey & Conservation Easement

EXHIBIT B – Overview Maps

Exhibit B-1: Regional Context Map

Exhibit B-2: Multi-Easement Context Map

Exhibit B-3: Easement Area Context Map

EXHIBIT C – Current Conditions and Description Map

Exhibit C-1: Easement Area Description Map

Exhibit C-2: Easement Area Soils Map

Exhibit C-3: Current Conditions & Natural Resources Inventory Certification

EXHIBIT D – Easement Farmstead Locations

Exhibit D-1: Easement Area Farmstead 1 Map

EXHIBIT E- Easement Existing Impervious Surfaces

Exhibit E-1: Easement Existing Impervious Surface Map

Exhibit E-2: Easement Impervious Surface Calculations